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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/586,943	06/02/2000	Perry R. DeYoung	OL102 P-350	6561

277 7590 02/28/2002

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EXAMINER

DEXTER, CLARK F

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 02/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/586,943

Applicant(s)
DeYoung

Examiner
Clark F. Dexter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jan 17, 2002
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claims 1-38 are subject to restriction and/or election requirements.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) ☐ Other: _____

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DETAILED ACTION

1. The response filed January 17, 2002 has been entered. Upon further review, particularly in view of the addition of new claims 35-38, a new restriction requirement is necessary and thus replaces the previous Restriction Requirement.

Election/Restriction

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
- I. Claims **1, 18** and 2, drawn to a dough divider with a delay device, classified in class 83, subclass 701.
 - II. Claims **1, 18**, 3-6, 14-17, 19-22 and 31-33, drawn to a dough divider with a specific press plate configuration, classified in class 83, subclass 618.
 - III. Claims **1, 18**, 7, 8, 23 and 24, drawn to dough divider with a combination specific press plate configuration and a knife assembly, classified in class 83, subclass .
 - IV. Claims **1, 18**, 10-13 and 27-30, drawn to dough divider with a knife assembly, classified in class 83, subclass 679.
 - V. Claims **1, 18**, 9, 25 and 26, drawn to dough divider with a specific lid configuration, classified in class 83, subclass 859.
 - VI. Claims **1, 18** and 35, drawn to dough divider with a combination specific press plate configuration and a delay device, classified in class 83.

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VII. Claims 1, 18 and 36-38, drawn to a dough divider with a combination specific press plate configuration and a specific lid configuration, classified in class 83.

3. Claims 1-17, 35 and 36 have been restricted such that the patentability of the invention is presumed to lie in the details of the particular group (e.g. the delay device of Group I). It is noted that if claim 1 as originally filed is part of an elected group and determined to be patentable, rejoinder of claims 1-17, 35 and 36 will be considered. It is further noted that claim 1 is listed as part of groups I-VII but is not considered to be part any of these groups. Rather, claim 1 recites subject matter that is common to all of the groups and has been shown as part of each group for clarity (i.e., so that it is clear which claims are part of which group). Further, because claim 1 includes subject matter that is common to all of the groups, it is not considered to be independent or distinct from any of the groups. Therefore, claim 1 will be examined upon election of one of the groups. The same applies to claim 18 with respect to the claims dependent therefrom.

4. The inventions are distinct, each from the other because of the following reasons:

Combination-Subcombinations:

5. Inventions of group III and groups II and IV are related as combination and subcombination. Inventions in this relationship are distinct if there is evidence that the combination does not rely on the subcombination for patentability. See MPEP 806.05 (c), example 3. Group IV is evidence that the combination of group III does not rely on the specific

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press plate configuration of group II for patentability; and conversely, group II is evidence that the combination of group III does not rely on the knife assembly of group IV for patentability.

Inventions of group VI and groups I and II are related as combination and subcombination. Inventions in this relationship are distinct if there is evidence that the combination does not rely on the subcombination for patentability. See MPEP 806.05 (c), example 3. Group II is evidence that the combination of group VI does not rely on the delay device of group I for patentability; and conversely, group I is evidence that the combination of group VI does not rely on the press plate configuration of group II for patentability.

6. Inventions of group VII and groups II and V are related as combination and subcombination. Inventions in this relationship are distinct if there is evidence that the combination does not rely on the subcombination for patentability. See MPEP 806.05 (c), example 3. Group II is evidence that the combination of group III does not rely on the specific lid configuration of group V for patentability; and conversely, group V is evidence that the combination of group III does not rely on the specific press plate configuration of group II for patentability.

Subcombinations Usable Together:

Group I vs Groups II-V and VII:

7. Inventions of group I and groups II, III and VII are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if

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they are shown to be separately usable. In the instant case, the delay device of group I could be employed without the specific press plate configuration of group II; and conversely, the specific press plate configuration of groups II, III and VII could be employed without the delay device of group I. See MPEP § 806.05(d).

8. Inventions of group I and group IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, the delay device of group I could be employed without the knife assembly of group IV; and conversely, the knife assembly of group IV could be employed without the delay device of group I. See MPEP § 806.05(d).

9. Inventions of group I and group V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, the delay device of group I could be employed without the specific lid configuration of group V; and conversely, the specific lid configuration of group V could be employed without the delay device of group I. See MPEP § 806.05(d).

Group II vs Groups IV and V:

10. Inventions of group II and group IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, the specific press plate configuration of group II could be employed without the knife assembly of group IV; and conversely, the knife assembly

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of group IV could be employed without the specific press plate configuration of group II. See MPEP § 806.05(d).

11. Inventions of group II and group V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, the specific press plate configuration of group II could be employed without the specific lid configuration of group V; and conversely, the specific lid configuration of group V could be employed without the specific press plate configuration of group II. See MPEP § 806.05(d).

Group III vs Groups V-VII:

12. Inventions of group III and group V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, the specific press plate configuration of group III could be employed without the specific lid configuration of group V; and conversely, the specific lid configuration of group V could be employed without the specific press plate configuration of group III. See MPEP § 806.05(d).

13. Inventions of group III and group VI are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, the knife assembly of group III could be

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employed without the delay device of group VI; and conversely, the delay device of group VI could be employed without the knife assembly of group III. See MPEP § 806.05(d).

14. Inventions of group III and group VII are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, the knife assembly of group III could be employed without the specific lid configuration of group VII; and conversely, the specific lid configuration of group VII could be employed without the knife assembly of group III. See MPEP § 806.05(d).

Group IV vs Groups V-VII:

15. Inventions of group IV and groups V and VII are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, the knife assembly of group IV could be employed without the specific lid configuration of groups V and VII; and conversely, the specific lid configuration of groups V and VII could be employed without the knife assembly of group IV. See MPEP § 806.05(d).

16. Inventions of group IV and group VI are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, the knife assembly of group IV could be

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employed without the delay device of group VI; and conversely, the delay device of group VI could be employed without the knife assembly of group IV. See MPEP § 806.05(d).

Group V vs Group VI:

17. Inventions of group V and group VI are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, the specific lid configuration of group V could be employed without the delay device of group VI; and conversely, the delay device of group VI could be employed without the specific lid configuration of group V. See MPEP § 806.05(d).

Group VI vs Group VII:

18. Inventions of group VI and group VII are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, the delay device of group VI could be employed without the specific lid configuration of group VII; and conversely, the specific lid configuration of group VII could be employed without the delay device of group VI. See MPEP § 806.05(d).

19. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, and have acquired a separate

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status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

20. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark Dexter whose telephone number is (703) 308-1404. The examiner's typical work schedule is Monday, Tuesday, Thursday and Friday, and he can be reached during normal business hours on these days.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Allan Shoap, can be reached at (703)308-1082.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)308-1148. The fax numbers for this group are: formal papers - (703)305-3579; informal/draft papers - (703)305-9835.



Clark F. Dexter
Primary Examiner
Art Unit 3724

cf
February 25, 2002